

BOMBAY ACT No. III OF 1903.<sup>1</sup>

[11th June, 1903.]

An Act further to amend the <sup>2</sup> Bombay District Municipal Act, 1901.

WHEREAS it is expedient further to amend the Bombay District Municipal Act, 1901, in manner hereinafter appearing ; It is hereby enacted as follows :—

Repeal of  
part of sec-  
tion 52.

1. In clause (a) of the second proviso to section 52 of the Bombay District Municipal Act, 1901, hereinafter called "the said Act," the words "throughout the line of country in which such works are situate, or contiguous to such line of country" are repealed.

Amendment  
of sections  
188 and  
189

2. (1) In section 188, sub-section (1), of the said Act—

(a) for clause (a) the following clause shall be substituted, namely :—

[*Supra*, p. 1629.]

(b) in clause (c), for the word "applied" the words "or rules applied or adapted" shall be substituted.

(2) In section 189 of the said Act, for the word "extended" the word "applied" shall be substituted.

BOMBAY ACT No. IV OF 1903.<sup>3</sup>

[11th June, 1903.]

An Act to provide for the preparation and maintenance of a record-of-rights in the lands of the Bombay Presidency.

WHEREAS it is expedient to provide for the preparation and maintenance of a record-of-rights in the lands of the Bombay Presidency in addition to any registers prescribed by or under the <sup>4</sup> Bombay Land-Revenue Code, 1879, and to amend the <sup>5</sup> Code of Civil Procedure and make other provision in relation thereto ;

And whereas the previous sanction of His Excellency the Governor

<sup>1</sup> For Statement of Objects and Reasons, see Bombay Government Gazette, 1903, Pt. VII, p. 4, and for Proceedings in Council, see *ibid*, 1903, Pt. VII, p. 43.

<sup>2</sup> *Supra*, p. 1527.

<sup>3</sup> For Statement of Objects and Reasons, see Bombay Government Gazette, 1902, Pt. VII, p. 287; for Report of Select Committee, see *ibid*, 1903, Pt. VII, p. 5, and for Proceedings in Council, see *ibid*, 1902, Pt. VII, p. 351; *ibid*, 1903, Pt. VII, p. 21.

<sup>4</sup> Vol. II of this Code, p. 631.

<sup>5</sup> See Act 14 of 1882 as modified up to 1st December, 1899.

## (Secs. 1-2.)

55 & 56  
Vict., c. 14.

General required by section 5 of the <sup>1</sup> Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Land Record-of-rights Act, Short title. 1903.

(2) Save as otherwise provided by the proviso to sub-section (3), this Act extends to the whole of the Presidency of Bombay, except the City of Bombay, Aden and the Scheduled District of the Mehwassi Chiefs' villages as defined in the <sup>2</sup> Scheduled Districts Act, 1874. Local extent.

XIV of 1874.

(3) It shall come into force at once :

Commence-  
ment.

Provided that the provisions of sections 10 to 12 (both inclusive) shall be applied in respect of a village from such date only as the Governor in Council may, by <sup>3</sup> notification published in the *Bombay Government Gazette*, direct that they shall be applied to such village or to the mahál taluka or district in which it is included.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) The words "Revenue-officer," "Collector," "Mámlatdár," "Mahálkari," "survey-number," "holder," "holding," "superior holder," "tenant," "landlord," "alienated," "village," "mahál," "taluka" and "district" shall be deemed to have the meanings respectively assigned to them by the <sup>4</sup> Bombay Land-Revenue Code, 1879, as from time to time amended ;

Bom. V of  
1879.

(b) "Chávdí" means, in any village in which there is no chávdí, such place as the Collector directs shall be deemed to be the chávdí for the purposes of this Act ;

XIV of 1882.

(c) "Suit" means a suit to which the provisions of the <sup>5</sup> Code of Civil Procedure are applicable ;

(d) "High Court" includes the Sadar Court in Sind ; and

(e) "Certified copy" or "certified extract" means a copy or extract, as the case may be, certified in the manner prescribed by section 76 of the <sup>6</sup> Indian Evidence Act, 1872.

I of 1872.

(2) In Sind the words "*Sind Official Gazette*" and "Mukhtyárkár" shall be deemed to be substituted for the words "*Bombay Government Gazette*" and "Mámlatdár" respectively, wherever they occur in this Act.

<sup>1</sup> Collection of Statutes relating to India, Vol. II, p. 734.

<sup>2</sup> General Acts, Vol. II.

<sup>3</sup> For notifications issued under this proviso, see *Bombay Government Gazette*, 1907, Pt. I, pp. 724 and 1040 and *ibid*, 1908, Pt. I, p. 5.

<sup>4</sup> Vol. II of this Code, p. 631.

<sup>5</sup> See the Code reprinted as modified up to 1st December, 1896.

<sup>6</sup> See Act 1 of 1872 as modified up to 1st September, 1906.

(Secs. 3-4.)

Preparation,  
revision and  
correction of  
record-of-  
rights and  
register of  
mutations.

3. (1) Save as otherwise provided by section 17, there shall be prepared as soon as conveniently may be and shall thereafter be kept in every village a record-of-rights in all lands belonging thereto, which shall include the following particulars, namely:—

- (a) the names of persons who are owners, holders, mortgagees, landlords, or tenants of the land, or assignees of the rent or revenue thereof, in the whole or part of any survey number or other holding in the village,
- (b) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching thereto,
- (c) the rent or revenue (if any) payable by or to any of such persons, and
- (d) such other particulars as the Governor in Council may from time to time by <sup>1</sup> rules prescribe in this behalf.

(2) The record shall otherwise be in such form and, subject to the provisions of section 6, be compiled in such manner as the Governor in Council may from time to time by rules prescribe in this behalf.

(3) For the purposes of the preparation, correction and maintenance of such record-of-rights, there shall also be kept a register of mutations and such other registers and records as the Governor in Council may by rules prescribe in this behalf.

(4) The correctness of the entries in the record-of-rights and register of mutations shall be inquired into, and the particulars thereof revised, by such Revenue-officers and in such manner and to such extent and subject to such appeal as the Governor in Council may from time to time by rules prescribe in this behalf.

Acquisition  
of rights in  
land to be  
reported.

4. (1) Subject to any exemption under section 17, any person acquiring, by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as owner, holder, mortgagee, landlord or tenant of the land, or assignee of the rent or revenue thereof, in the whole or part of any survey number or other holding in any village, in which a record-of rights as aforesaid is being prepared or is kept, shall report orally or in writing his acquisition of such right to the village-accountant within three months from the date of such acquisition.

*Explanation I.*—The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 100 of the <sup>2</sup> Transfer of Property Act, 1882.

IV of 1882.

<sup>1</sup> For rules under s. 3 in conjunction with ss. 5, 9 and 14, see Bombay Government Gazette, 1902, Pt. I, p. 1487.

<sup>2</sup> See the reprint of the Act as modified up to 1st December, 1905.

(Secs. 5-6.)

*Explanation II.*—A person in whose favour a mortgage is discharged or extinguished, or a lease determines, acquires a right within the meaning of this section.

(2) Where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the village-accountant.

5. (1) The village-accountant shall, on receipt of any report under section 4, whether made within the prescribed period or not,—

Duties of village-accountant in respect of reports under section 4.

- (a) at once give a written acknowledgment thereof to the person making the same;
- (b) at once post up the report, or a copy or an abstract containing the substance thereof, in a conspicuous place in the village chavdi;
- (c) give notice in writing of such report to all persons appearing from the report to have any interest in the subject-matter thereof; and
- (d) enter such report in his register of mutations.

(2) The village-accountant shall submit a report to the Mámílatdár of the taluka or the Mahálkari of the mahál, in which the village is included, respecting the acquisition of any right of the kind specified in sub-section (1) of section 4, which he has reason to believe to have taken place, and of which a report should have been made to him under that section and has not been so made, and such Mámílatdár or Mahálkari, as the case may be, may, if after due inquiry he finds any such acquisition to have taken place, authorize the making of such entry respecting it as he may deem fit.

Procedure in cases where acquisition of rights not reported under section 4.

(3) Where any objection is made to the correctness of any report under section 4, or of any entry respecting the possession or acquisition of any such right as aforesaid in the register of mutations, either before the village-accountant, or in the course of an inquiry held under sub-section (4) of section 3 by a Circle-Inspector, such village-accountant or Circle-Inspector shall give a written acknowledgment of the receipt of the objection to the person making the same, and enter the substance of such objection in the register of mutations, or such other register or record as the Governor in Council may direct in this behalf.

Duties of village-accountant and Circle-Inspector in respect of objections to correctness of report or entry.

6. (1) No entry regarding the possession or acquisition of any such right as aforesaid shall be made in a record-of-rights by a village-accountant, unless—

Powers and duties of village-accountant in respect of entries in a record-of-rights.

- (a) the making of such entry has been duly authorized, or
- (b) the correctness of such entry has, under sub-section (4) of section 3, been inquired into, and the particulars thereof revised, if necessary, by a Revenue-officer of a rank not below that of a Circle-Inspector or, in the

<sup>1</sup> For rules containing such directions under sub-section 3 of s. 5 in conjunction with ss. 3, 9 and 14, see Bombay Government Gazette, 1903, Pt. I, p. 1487.

case of a disputed entry or one falling under sub-section (2) of section 5, not below that of a Mahálkari.

(2) The village-accountant shall, for a period of not less than one month before the transfer of any entry from the register of mutations to the record-of-rights, keep a copy of such entry posted up in a conspicuous place in the village, chávdi.

Obligation to furnish information as to rights in land.

7. (1) Any person whose rights, interests or liabilities are required to be, or have been, entered in any record or register under this Act shall be bound, on the requisition of any Revenue-officer or village-accountant engaged in compiling or revising the record or register, to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power :

Provided that no such requisition shall be made by a village-accountant, unless it has been previously countersigned by a Revenue-officer of a rank not below that of a Circle Inspector.

(2) A Revenue-officer or village-accountant to whom any information is furnished, or before whom any document is produced under sub-section (1) shall at once, if required, give a written acknowledgment thereof to the person furnishing or producing the same, and shall endorse on any such document a note under his signature, stating the fact of its production and the date thereof.

Levy of fee from person neglecting to report or furnish information.

8. Any person neglecting to make the report or furnish the information <sup>1</sup>[or produce the documents] required by section 4 or 7 within the prescribed period shall be liable, at the discretion of the Collector, to be charged a fee not exceeding twenty-five rupees, which shall be leviable as an arrear of land revenue.

Power to require assistance from Landholders, etc., in preparation or revision of maps or plans.

9. For the purpose of preparing or revising any map or plan required for, or in connection with, any record or register under this Act, any Revenue-officer or village-accountant may, subject to such <sup>2</sup> rules as may be from time to time made in this behalf by the Governor in Council, exercise any of the powers of a Survey-officer under sections 96 and 97 of the <sup>3</sup> Bombay Land-Revenue Code, 1879 :

Bom. V of 1879.

Provided that the power of employing hired labour and assessing the cost thereof under section 97 of the said Code shall not be exercised by a village-accountant or a Revenue-officer of a rank below that of a Mahálkari.

Certified copy of entries in record-of-rights or

10. (1) Subject to any exemption under section 17, in any suit relating to land situate in a village, to which the provisions of this section have been applied under sub-section (3) of section 1, the plaintiff shall annex to the

<sup>1</sup> These words were inserted by s. 2 (1) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), *infra*, p. 1741.

<sup>2</sup> For rules under s. 9 in conjunction with ss. 3, 5 and 14, see Bombay Government Gazette, 1903, Pt. I, p. 1487.

<sup>3</sup> Vol. II of this Code, p. 631.

(Secs. 11-12).

plaint, or, if for any cause which the Court deems sufficient he fails to do so, shall produce within a reasonable time to be fixed by the Court a certified copy of any entry or entries in the record-of-rights regarding the land in respect of which the suit is brought, as well as of any subsequent corrections thereof or additions thereto made in the register of mutations, but not yet entered in the record-of-rights.

*Explanation.*—A suit relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit relating to the rent or tenancy of land.

XIV of 1882. (2) In the case of any such suit the following clause shall be deemed to be added to section 54 of the <sup>1</sup> Code of Civil Procedure as clause (e), namely :—  
“(e) in any suit to which section 10 of the Bombay Land Record-of-rights Act, 1903, applies, if the certified copy therein mentioned is not annexed to the plaint and the plaintiff, on being required by the Court to produce it, fails to do so within the time allowed by the Court.”

Plaint to be rejected under section 54 of the Code of Civil Procedure, if certified copy not annexed to plaint or produced within time allowed.

11. (1) In any suit in which a certified copy of any entry or entries in the record-of-rights or register of mutations is annexed to the plaint or otherwise produced under section 10, the Court shall after the decision thereof communicate to the Collector any error which from the evidence appears to have been made in such entry or entries or which results from the decree passed, and a copy of such communication shall be kept with the record of the suit.

Communication of errors in such entries by the Court to the Collector.

(2) The provisions of sub-section (1) shall apply to an Appellate or Revisional Court as well as to a Court of first instance :

Provided that in the case of an appellate or revisional decree passed by the High Court, the communication shall be made by the Court from which the appeal lay or the record was called for.

(3) The Collector on receipt of such communication shall cause the entry or entries affected to be corrected in accordance with the decree or decision of the Court, so far as it adjudicates upon any right required to be entered in the record-of-rights or register of mutations.

Bom. V of 1879.

12. Notwithstanding anything to the contrary in section 87 of the <sup>2</sup>Bombay Land-Revenue Code, 1879, but subject to any exemption under section 17, the Collector shall refuse assistance to any superior holder whose application under section 86 of the said Code relates to lands situate in a village, to which the provisions of this section have been applied under sub-section (3) of section 1, and whose claim to such assistance is not supported by an entry or entries duly made in the record-of-rights or register of mutations.

Assistance under section 87 of the Bombay Land Revenue Code to be refused if application not supported by record-of-rights or register of mutations.

<sup>1</sup> See Act 14 of 1882 as modified up to 1st December, 1903.

<sup>2</sup> Vol. II of this Code, p. 631.

Saving of liability to pay land-revenue.

13. No entry or entries made in the record-of-rights or register of mutations shall affect the liability of any person to pay the land-revenue of alienated or unalienated land under the provisions of the <sup>1</sup>Bombay Land-Revenue Code, Bom. V of 1879, or other law for the time being in force relating to the recovery <sup>1879.</sup> of land-revenue.

Record-of-rights and register of mutations open to inspection, and extracts and copies to be given.

14. Subject to such <sup>2</sup> rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, the record-of-rights and register of mutations shall be open to the inspection of the public at reasonable hours, and certified extracts therefrom, or certified copies thereof, shall be given to all persons applying for the same :

Provided that—

(a) applications for such certified extracts or certified copies may be made to, and such certified extracts or certified copies may be given by, either the village accountant, or the Mámlatdár of the táluka, or the Mahálkari of the máhal, in which the village is included, and

(b) no fee shall be charged for any certified copy required for the purpose specified in sub-section (1) of section 10.

Bar of suits against Government and Government officers in respect of entries in rights or register or mutations.

15. No suit shall lie against Government or against any officer of Government in respect of a claim to have any entry made in any record or register under this Act, or to have any such entry either omitted or amended.

Provisions as to publication of rules.

16. The power to make rules under this Act shall be subject to the condition of the rules being made after previous publication in the manner specified in section 23 of the <sup>3</sup> General Clauses Act, 1897, and every rule made under this Act shall be published in the *Bombay Government Gazette*. <sup>x of 1897.</sup>

Power of exemption.

17. The Governor in Council may, by notification published in the *Bombay Government Gazette*, from time to time <sup>4</sup> exempt any specified district, táluka, mahál, village or lands, or class of villages or lands, from the operation of this Act or any of the provisions thereof, and may by a like notification cancel or modify any such order of exemption.

<sup>1</sup> Vol. II of this Code, p. 631.

<sup>2</sup> For rules under s. 14 in conjunction with ss. 3, 5 and 9, see *Bombay Government Gazette*, 1903, Pt. I, p. 1487.

<sup>3</sup> General Acts, Vol. VI.

<sup>4</sup> For notifications exempting certain villages and lands, see *Bombay Government Gazette*, 1904, Pt. I, pp. 68 and 618 and *ibid*, 1907, Pt. I, pp. 291, 456 and 486.